

REMARKS

In reply to the Office Action dated March 16, 2004, claims 3, 4, 11, 15 and 18 are currently under examination. By the above amendment, claims 3, 11, 15 and 18 have been amended for clarity and to more particularly point out one embodiment of Applicants' invention. Support for the amendment can be found throughout the specification as filed. Support for degenerate variants can be found, for example, at page 25, line 28-page 26, line 6. Support for complements can be found, for example, at page 2, lines 26-27. Support for 10 contiguous nucleotides can be found, for example, at page 26, lines 24-29. The above amendment is not to be construed as acquiescence to the stated grounds for objection/rejection and is made without prejudice to prosecution of any subject matter modified and/or removed by this amendment in a related divisional, continuation and/or continuation-in-part application.

***Rejections Under 35 U.S.C. § 112, first paragraph (Written Description)***

Claims 3, 4, 11, 15 and 18 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly containing subject matter which is not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the Applicants, at the time the application was filed, had possession of the claimed invention. In particular, the Action contends that the claims do not specifically exclude promoters, introns, or enhancers from the related gene, sequences which allegedly do not meet with written description provisions under 35 U.S.C. § 112, first paragraph. Further, the Action asserts that there is not adequate description of the genus of primers that are "suitable for amplification of at least a portion of a polynucleotide according to claim 18...". The Action notes that there is support for the sequences of SEQ ID NO:302 and 303, and related sequences which encode the disclosed antigen B11Ag1 through codon degeneracy.

Applicants traverse the rejection for the reasons already of record. Further, with regard to claim 15, Applicants submit that the Written Description Guidelines specifically note that what is conventional or well known to one of ordinary skill in the art need not be disclosed in detail. (Federal Register/ Vol. 66, No.4, Friday, January 5, 2001, p1106, first column). Applicants submit that the design of primers suitable for polynucleotide amplification, given a

particular target sequence, is well known in the art (barring something specifically unusual or novel about a particular primer). The skilled artisan would readily understand that any number of primers are suitable for the amplification of at least a portion of the polynucleotide of SEQ ID NOs:302 and 303 and would easily be able to make and use such primers using only routine experimentation, particularly in light of the teachings of the specification as filed (see for example, page 43, line 8-page 44, line 10). Accordingly, Applicants submit that it is unnecessary to describe all possible primers that could be used to amplify the claimed polynucleotides.

Notwithstanding the above remarks, Applicants have amended the claims solely to expedite prosecution. In particular, the claims have been amended to recite an isolated cDNA comprising a sequence selected from the group consisting of the sequence provided in SEQ ID NO: 302, or a degenerate variant thereof; the sequence provided in SEQ ID NO: 303, or a degenerate variant thereof and the complement of the sequence provided in SEQ ID NO:302 or SEQ ID NO:303. Claim 15 has been amended to recite a diagnostic kit comprising at least two oligonucleotide primers, wherein said primers comprise a polynucleotide consisting of at least about 10 contiguous nucleotides of the cDNA accordingly to claim 18. Applicants respectfully submit that the above amendments obviate the ground for rejection and that the rejection may be properly withdrawn.

***Rejections Under 35 U.S.C. § 112, second paragraph (Indefiniteness)***

Claim 15 stands rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Action contends that the term “suitable for amplification of at least a portion” is a relative term which renders the claim indefinite.

Without acquiescing to the rejection, Applicants have amended claim 15 solely to expedite prosecution and without prejudice. Applicants submit that the amendment has obviated the rejection and urge that it may be properly withdrawn.

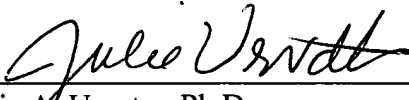
The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

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Applicants respectfully submit that all the claims remaining in the application are now believed allowable. Favorable consideration and a Notice of Allowance are earnestly solicited.

Respectfully submitted,

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